



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2023-0658]

RIN 1625-AA09

Drawbridge Operation Regulation; Okeechobee Waterway, Stuart, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the operating schedule that governs the Roosevelt (US1) Bridge, across the Okeechobee Waterway, mile 7.5, at Stuart, FL.

This action is necessary to allow the drawbridge to operate on demand as outlined in the Record of Decision for the high-level fixed US1 Roosevelt Bridge which was constructed in 1997. Additionally, with the anticipated increase in railway activity on the adjacent railroad bridge, this proposed modification will allow the bridges to operate in concert. The drawbridge name in the regulation is incorrect and will be changed. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must reach the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2023-0658 using Federal Decision Making Portal at <https://www.regulations.gov>.

See the “Public Participation and Request for Comments” portion of the

SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e- mail Ms. Jennifer Zercher, Bridge Management Specialist, Seventh Coast Guard District; telephone 305-415-6740, email Jennifer.N.Zercher@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
OMB	Office of Management and Budget
NPRM	Notice of Proposed Rulemaking (Advance, Supplemental)
§	Section
U.S.C.	United States Code
FL	Florida
FDOT	Florida Department of Transportation

II. Background, Purpose and Legal Basis

The Roosevelt (US1) Bridge, across the OWW, mile 7.5, at Stuart, Florida, is a double-leaf bascule bridge with a 14-foot vertical clearance at mean high water in the closed position. The normal operating schedule for the bridge is found in 33 CFR 117.317(d). Navigation on the waterway is commercial and recreational.

The Coast Guard is proposing to modify the drawbridge operating schedule to allow the drawbridge to operate on demand as outlined in the Record of Decision for the high-level fixed US1 Roosevelt Bridge which was constructed in 1997. Additionally, with the anticipated increase in railway activity on the adjacent railroad bridge, this proposed modification will allow the bridges to operate in concert. The drawbridge name in the regulation, Roosevelt (US1) Bridge, is incorrect and will be permanently changed in the CFR and referred to for the remainder of the NPRM as SR 707 (Dixie Highway) Bridge.

The SR 707 (Dixie Highway) Bridge was included in previously published notices and a general deviation with a request for comments in the Federal Register,

under docket number USCG-2022-0222. These actions were taken to gather comments on waterway usage and the operation of the Florida East Coast Railroad Bridge and the SR 707 (Dixie Highway) Bridge at Stuart, FL.

On May 3, 2022, the Coast Guard published a Notification of Inquiry entitled, “Drawbridge Operation Regulation; Okeechobee Waterway, Stuart, FL” in the Federal Register (87 FR 26145). On June 10, 2022, a Supplemental Notification of Inquiry entitled, “Drawbridge Operation Regulation; Okeechobee Waterway, Stuart, FL” was published in the Federal Register (87 FR 35472). We received a total 2358 comments on those publications.

The Coast Guard asked the public if the SR 707 (Dixie Highway) Bridge opening schedule should mirror the operating schedule of the FEC Railroad Bridge. 172 comments were received regarding this question. 97 comments stated the SR 707 (Dixie Highway) Bridge and the FEC Railroad Bridge should have similar coordinated scheduled openings. We have determined that placing the highway bridge on demand will allow the bridges to coordinate openings given the unique operation of the railroad bridge. The difference in navigational clearances requires the railroad bridge to be open for specific lengths of times and when trains are not crossing. The highway bridge is not as restrictive to navigation and does not require a stricter operating schedule. 52 comments stated the highway bridge should operate on demand with the railroad bridge operating the same. Railway operations are dynamic and on demand openings are not sustainable for the rail industry. The anticipated increase in railway activity necessitates this proposed change in the operating schedule for the highway bridge to allow the bridges to operate in concert. Seven comments recommended the highway bridge remain unchanged and the railroad bridge should operate per the highway bridge regulation. The highway bridge no longer requires the published operating schedule since the US1 Roosevelt Bridge was constructed and open to vehicle traffic. Again, railway operations

are dynamic and on demand openings are not sustainable for the rail industry. The remaining comments were not considered as the responses included the highway bridge should be permanently removed, the operating schedules should be the same if the railroad bridge was rebuilt at a higher vertical clearance and the operating schedule of either bridge was not known so a response could not be provided.

On June 8, 2023, the Coast Guard published a Temporary Deviation entitled, “Drawbridge Operation Regulation; Okeechobee Waterway, Stuart, FL” in the Federal Register (88 FR 37470). The comment period ended on August 4, 2023, with 342 comments received.

The comments received were not specific to the SR 707 (Dixie Highway) Bridge but directed toward the operation of the railroad bridge. Given the dynamic and uncertain nature of the operation of the railroad bridge, the SR 707 (Dixie Highway) Bridge has been removed from docket number USCG-2022-0222 to allow separate rulemaking for the highway bridge to operate on demand.

III. Discussion of Proposed Rule

Under this proposed rule, the SR 707 (Dixie Highway) Bridge will open on demand except when the adjacent railroad bridge is in the closed position, the drawbridge need not open. The draw must open immediately upon opening of the railroad bridge to pass all accumulated vessels which request an opening. Vessels that can pass beneath the bridge without an opening may do so at any time.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits

of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This proposed rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the ability that vessels can transit the bridge on demand and vessels able to pass without an opening may do so at any time.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or

governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted

for inflation) or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3-1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at <https://www.regulations.gov>. To do so, go to

<https://www.regulations.gov>, type USCG-2023-0658 in the search box and click "Search." Next, look for this document in the **Search Results** column, and click on it. Then click on the **Comment** option. If your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select "Supporting & Related Material" in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. Also, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted, or a final rule is published or any posting or updates to the docket.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; and DHS Delegation No. 00170.1,

Revision No.01.3

2. Amend § 117.317 by revising paragraph (d) to read as follows:

§ 117.317 Okeechobee Waterway

(d) The SR 707 (Dixie Highway) Bridge, mile 7.5 at Stuart, shall open on signal; except when the adjacent railroad bridge is in the closed position, the draw need not open. The draw must open immediately upon opening of the railroad bridge to pass all accumulated vessels requesting an opening.

Dated: October 13, 2023

Douglas M. Schofield
Rear Admiral, U.S. Coast Guard
Commander, Coast Guard Seventh District
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